

**BOROUGH OF HIGHLAND PARK
NO. 21-2027**

**AN ORDINANCE BY THE BOROUGH OF HIGHLAND PARK, MIDDLESEX COUNTY, NEW JERSEY
AMENDING THE CODE OF THE BOROUGH OF HIGHLAND PARK ALLOWING CLASS V RETAIL
CANNABIS BUSINESSES, CLASS VI CANNABIS DELIVERY SERVICES, AND MEDICAL CANNABIS
DISPENSARIES IN THE CBD AND C ZONING DISTRICTS, ESTABLISHING LICENSING, TAXATION,
AND ZONING REQUIREMENTS IN CONNECTION THEREWITH, AND PROHIBITING ALL OTHER
CLASSES OF CANNABIS BUSINESSES WITHIN THE GEOGRAPHICAL BOUNDARIES OF THE
BOROUGH**

WHEREAS, in 2020 New Jersey voters approved Public Question No. 1, which amended the New Jersey Constitution to allow for the legalization of a controlled form of marijuana called "cannabis" for adults at least 21 years of age; and

WHEREAS, on February 22, 2021, Governor Murphy signed into law P.L. 2021, c. 16, known as the "*New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act*" (the "Act" or "CREAMMA"), which legalizes the recreational use of marijuana by adults 21 years of age or older, and establishes a comprehensive regulatory and licensing scheme for commercial recreational (adult use) cannabis operations, use and possession; and

WHEREAS, the Act establishes six marketplace classes of licensed businesses, including:

- Class 1 Cannabis Cultivator license, for facilities involved in growing and cultivating cannabis;
- Class 2 Cannabis Manufacturer license, for facilities involved in the manufacturing, preparation, and packaging of cannabis items;
- Class 3 Cannabis Wholesaler license, for facilities involved in obtaining and selling cannabis items for later resale by other licensees;
- Class 4 Cannabis Distributor license, for businesses involved in transporting cannabis plants in bulk from a licensed cultivator to another licensed cultivator, or cannabis items in bulk from any type of licensed cannabis business to another;
- Class 5 Cannabis Retailer license for locations at which cannabis items and related supplies are sold to consumers; and
- Class 6 Cannabis Delivery license, for businesses providing courier services for consumer purchases that are fulfilled by a licensed cannabis retailer in order to make deliveries of the purchased items to a consumer, and which service would include the ability of a consumer to make a purchase directly through the cannabis delivery service which would be presented by the delivery service for fulfillment by a retailer and then delivered to a consumer.

WHEREAS, section 31a of the Act authorizes municipalities by ordinance to adopt regulations governing the number of cannabis establishments (defined in section 3 of the Act as "a cannabis cultivator, a cannabis manufacturer, a cannabis wholesaler, or a cannabis retailer"), cannabis distributors or cannabis delivery services allowed to operate within their boundaries, as well as the location manner and times operation of such establishments, distributors or delivery services, and establishing civil penalties for the violation of any such regulations; and

WHEREAS, section 31b of the Act authorizes municipalities by ordinance to permit, regulate or prohibit the operation of any one or more classes of cannabis establishments, distributors, or delivery services anywhere in the municipality; and

WHEREAS, section 31b of the Act also stipulates that any municipal regulation or prohibition must be adopted within 180 days of the effective date of the Act (*i.e.*, by August 22, 2021); and

WHEREAS, pursuant to section 31b of the Act, the failure to do so shall mean that for a period of five years thereafter, the growing, cultivating, manufacturing, selling and reselling of cannabis and cannabis items shall be permitted uses in all industrial zones, and the retail selling of cannabis items to consumers shall be a conditional use in all commercial and retail zones; and

WHEREAS, at the conclusion of the initial and any subsequent five-year period following a failure to enact local regulations or prohibitions, the municipality shall again have 180 days to adopt an ordinance regulating or prohibiting cannabis businesses, but any such ordinance would be prospective only and would not apply to any cannabis business already operating within the municipality; and

WHEREAS, municipalities are authorized by the Act and by N.J.S.A. 40:481- 1.a (1) to impose by ordinance a transfer tax of up to two percent (2%) on the sale of cannabis or cannabis items by a cannabis retailer located in the municipality; and

WHEREAS, municipalities imposing a transfer tax are required by N.J.S.A. 40:481-1.b (1) to include in the ordinance a user tax, at the equivalent transfer tax rates, on any current license holder operating more than one cannabis establishment and transferring cannabis or cannabis items from the license holder's establishment in the municipality to any of the other license holder's establishment(s), whether located in the municipality or another municipality, based on the value of each such transfer or use not otherwise subject to the transfer tax; and

WHEREAS, the Council of the BOROUGH OF HIGHLAND PARK (hereafter, the "BOROUGH") has determined that, due to present uncertainties regarding the potential future impacts that allowing one or more classes of cannabis business might have on New Jersey municipalities in general, and on the BOROUGH in particular, it is at this time necessary and appropriate, and in the best interests of the health, safety and welfare of the BOROUGH's residents and members of the public who visit, travel, or conduct business in the BOROUGH, to allow only medical cannabis dispensaries, Class 5 cannabis retailers and Class 6 cannabis delivery services to operate within the geographical boundaries of the Borough; to establish limitations on where and how these operations may take place; and to establish licensing and taxation requirements in connection with same; and

WHEREAS, the Medicinal Use Act authorizes the licensed operation of medical cannabis dispensaries as defined by said act at N.J.S.A. 24:61-3; and

WHEREAS, the Borough of Highland Park Board of Education has agreed to prepare a significant program that will target the prevention of underage consumption of cannabis, similar to the Board of Education's successful Alcohol Abuse Education Program in order to educate their students against the illegal consumption of cannabis products; and

WHEREAS, the Borough of Highland Park Board of Health will with support from the Borough social worker also develop a program for parents to counsel their children against the underage consumption of cannabis products; and

WHEREAS, the Borough of Highland Park joins several other Middlesex County municipalities who have indicated that they will also authorize Class 5 Cannabis Retailer licenses so that residents of the Borough, if they are unable to procure legally authorized cannabis products in the Borough, will simply go to an adjoining municipality to acquire their cannabis products; and

WHEREAS, authorizing the retail sales of cannabis within the Borough has the potential to provide a significant source of additional income to the Borough annually to offset the current reliance on property taxes. Said additional income will assist the Borough in providing tax relief, including relief for senior residents that would like to remain in the Borough but face challenges due to the burden of real property taxes; and

WHEREAS, authorizing retail cannabis sales will address economic equity issues, support continued economic growth in the Central Business District and the Commercial District and will provide additional job opportunities for residents of the Borough; and

WHEREAS, the BOROUGH intends to continue gathering information and further exploring whether and where to allow other marketplace classes of cannabis businesses; and

WHEREAS, until such time as the BOROUGH has gathered sufficient information to make such a determination, all other marketplace classes of cannabis businesses shall be prohibited from operating anywhere within the geographical boundaries of the BOROUGH;

NOW, THEREFORE, BE IT ORDAINED, by the Council of the BOROUGH OF HIGHLAND PARK, in the County of Middlesex, State of New Jersey, as follows:

1. Preamble. The findings set forth in the preamble to this ordinance are hereby incorporated as if fully restated.

2. General prohibition on all cannabis businesses other than Class 5 cannabis retailers and Class 6 cannabis delivery services. In accordance with the authority granted to municipalities by N.J.S.A. 24:61-45, only the following cannabis facilities shall be permitted to operate within the geographical boundaries of the Borough: Class V cannabis retailers and Class VI cannabis delivery services, subject to the use, permitting, and taxation requirements set forth in this ordinance. All other marketplace classes of cannabis businesses shall be prohibited from operating anywhere within the geographical boundaries of the Borough.

3. Amendments to Borough land development regulations. Chapter 230, entitled "1989 Land Development Ordinance of the Borough of Highland Park, New Jersey." of the Code of the Borough Highland Park ("Code"), is hereby amended to permit Class 5 cannabis retailers and Class 6 cannabis delivery services in the CBD Central Business District and the C Commercial District, as follows (additions are underlined; deletions are in [brackets]):

§ 230-140.CBD Central Business District Zone.

Add the following new subsection (10) under "B. Permitted principal uses":

(10) Medical cannabis dispensaries, Class 5 cannabis retailers and Class 6 cannabis delivery services, as said terms are defined in this Code, subject to the requirements set forth in Chapter 136 of this Code.

Add the following new subsection (14) under "F. Prohibited uses":

(14) Class 1 cannabis cultivators, Class 2 cannabis manufacturers, Class 3 cannabis wholesalers, and Class 4 cannabis distributors, as said terms are defined in this Code.

§ 230-141. C Commercial Zone.

Add the following new subsection (8) under "B. Permitted principal uses":

- (8) Medical cannabis dispensaries, Class 5 cannabis retailers and Class 6 cannabis delivery services, as said terms are defined in this Code, subject to the requirements set forth in Chapter 136 of this Code.

Add the following new subsection (8) under "F. Prohibited uses":

- (8) Class 1 cannabis cultivators, Class 2 cannabis manufacturers, Class 3 cannabis wholesalers, and Class 4 cannabis distributors, as said terms are defined in this Code.

4. **Licensing requirements and general limitations for Class 5 cannabis retailers and Class 6 cannabis delivery services.** A new Chapter 136 entitled "Cannabis" is hereby added to Part II, "General Legislation, of the Code of the Borough of Highland Park, which shall read as set forth in Exhibit "A" attached hereto.

5. **Taxation of Class 5 cannabis retailers and Class 6 cannabis delivery services.** A new Article III entitled "Local Cannabis Transfer Tax and User Tax," is hereby added to Chapter 374, "Taxation" of the Code of the Borough of Highland Park, which shall read as set forth in Exhibit "B" attached hereto.

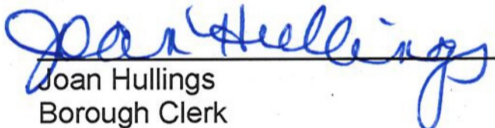
6. **Repealer.** Any article, section, paragraph, subsection, clause, or other provision of the BOROUGH Code inconsistent with the provisions of this ordinance is hereby repealed to the extent of such inconsistency.

7. **Severability.** If any section, paragraph, subsection, clause, or provision of this ordinance shall be adjudged by a court of competent jurisdiction to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause, or provision so adjudged, and the remainder of this ordinance shall be deemed valid and effective.

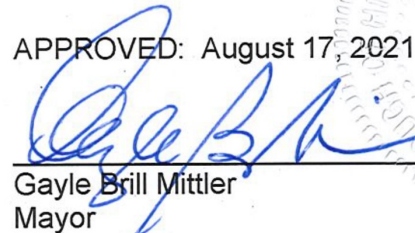
8. **Effective date.** This ordinance shall take effect upon its passage and publication and filing with the County of Middlesex Planning Board, and as otherwise provided for by law.

Introduced on first reading
by title: July 6, 2021

ADOPTED: August 17, 2021
ATTEST:


Joan Hullings
Borough Clerk

APPROVED: August 17, 2021


Gayle Brill Mittler
Mayor

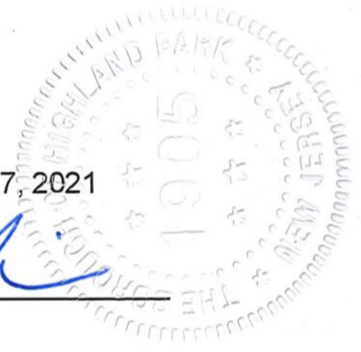


EXHIBIT A
CHAPTER 136
CANNABIS
ARTICLE I
General Provisions

§ 136-1. Purpose.

This chapter is enacted in accordance with the provisions of the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (the "Act" or "CREAMMA"), N.J.S.A. 24:61-32 *et seq.*, and the regulations promulgated by the Cannabis Regulatory Commission ("CRC"). The purpose of this chapter is to regulate the establishment and operation of cannabis businesses in the Borough of Highland Park ("Borough") and to specify the conditions and limitations applicable thereto.

§ 136-2. Definitions.

For the purpose of this chapter and all other applicable chapters of this Code, words and phrases herein shall have the meanings set forth in CREAMMA.

§ 136-3. Applicable laws.

All applications for licenses, all licenses issued and all proceedings under this chapter shall be in accordance with the Act, rules and regulations referred to in §136-1 above, and all other applicable laws of the State of New Jersey. The regulations set forth herein are subject to the enabling authority of the State of New Jersey, by and through the Cannabis Regulatory Commission, and are subject to compliance with all statutes and/or regulations promulgated and adopted by the State of New Jersey or its instrumentalities. If any provision of this chapter is inconsistent with the statutes and/or regulations of the State of New Jersey, the State statutes and/or regulations shall prevail.

§ 136-4. License required.

No cannabis facility may lawfully operate in the Borough without the issuance of a State permit or license and full regulatory oversight of the cannabis business by the Cannabis Regulatory Commission or other state licensing authority as well as oversight and issuance of a license by the Borough in accordance with the provisions of this chapter.

§ 136-5. Conditions and limitations.

- A. Only the following marketplace classes of cannabis facilities shall be allowed to operate in the Borough, subject to the limitations and requirements set forth herein and elsewhere in this Code and all other classes shall be prohibited:

Class 5 Cannabis Retailer
Class 6 Cannabis Delivery Service

- B. Only a Borough license issued pursuant to this chapter shall constitute "written municipal approval" pursuant to CREAMMA, N.J.S.A. 24:61-36(b)(1)(c)(i) and 24:61-45(c). Other written statements, letters, resolutions, or other documents issued by the Borough or any official, employee, or other representative shall not constitute annual or renewed "written municipal approval" for purposes of the CRC.

- C. Cannabis retailers and delivery services ("facility") shall be permitted, pursuant to this chapter, only if in addition to all applicable land use regulations, the following requirements are met:

- (1) Land development regulations: The facility shall obtain all approvals required pursuant to the Borough's land development regulations set forth in Chapter 230 of this Code, which approval(s) shall be evidenced by the issuance of a zoning permit.

- (2) Hours of operation: The operating hours of the licensed facility shall be between 9:00 am and 10:00 pm daily. It shall be unlawful for any person to sell or dispense cannabis or cannabis products in any licensed facility at any time other than between these hours.
- (2) The licensed facility shall be accessible directly from a right-of-way through a separate entrance independent from any other retail ingress.
- (3) No cannabis product shall be visible from a public sidewalk, public street or right-of-way or any other public place.
- (4) All cannabis products shall be stored securely indoors and onsite.
- (5) Consumption of cannabis products, by any means of ingestion, shall not be permitted in the licensed facility or adjacent grounds.
- (6) Outside generators and other mechanical equipment used for any kind of power supply, cooling or ventilation shall be enclosed and have appropriate baffles, mufflers, and/or other noise reduction systems to mitigate noise pollution.
- (7) All cannabis facilities shall be secured in accordance with State of New Jersey statutes and regulations; shall have a round-the-clock video surveillance system, 365 days a year; shall have security fencing and gates around the perimeter of the premises; and shall have trained security personnel onsite at all times during operating hours.
- (8) Signage design shall comply with the Borough's sign regulations at Section 230-115 of the Code.
- (9) With respect to stand-alone cannabis delivery services, cannabis items shall not be stored or housed at the office or dispatch without trained security personnel guarding the items. Cannabis items must not be left unattended in vehicles. Signage design shall not include artistic or photographic renderings of cannabis plants. Signage at the cannabis delivery service shall communicate that the facility is not open to the public. Window signs and advertisements are prohibited.
- (10) No cannabis facility shall be housed in a vehicle or any movable or mobile structure.
- (11) Comply with all rules and regulations adopted by the New Jersey Cannabis Regulatory Commission.
- (12) Consumption of cannabis products, by any means of ingestion or smoking shall not be permitted in the licensed facility or adjacent grounds unless within an approved cannabis consumption area. Each retailer may only operate one cannabis consumption area. The cannabis consumption area shall be either (a) an indoor, structurally enclosed area of the licensed cannabis retailer's premise that is separate from the area in which retail sales of cannabis items occur or (b) an exterior structure on the same premise as the retailer, either separate from or connected to the retailer and likewise wholly enclosed. There shall be no outdoor cannabis consumption area. The cannabis consumption area shall be equipped to mitigate and contain odors from cannabis products which may be smoked. The cannabis consumption area shall be equipped with a ventilation system sufficient in type and capacity to mitigate cannabis odors emanating from the interior of the cannabis consumption area. The discharge of said ventilation system shall not discharge any odors that can be smelled by any adjacent property owner or within a right of way.

ARTICLE II
Licensing

§ 136-6. Issuing authority.

- A. All licenses required by this chapter shall be issued by the Borough Council, which shall also administer the provisions of this chapter.
- B. No license issued pursuant to this chapter shall be effective until or unless the State has issued the requisite permits or licenses to operate such a facility.
- C. Each license shall be effective from January 1 until December 31 and shall be annually renewed upon the submission of an application and renewal fee provided all conditions and requirements of applicable State law and this this chapter are met.

§ 136-7. Application process.

- A. Application. Persons wishing to obtain any classification of cannabis license shall file a license application with the Borough Clerk, on a standardized form established by the Clerk. The Clerk shall establish a reasonable application period and deadline for all applications. An application shall be deemed incomplete, and shall not be processed by the Clerk, until all documents and application fees are submitted.
- B. To be deemed complete, all applications shall be accompanied by the following:
 - (1) Nonrefundable application fee.
 - (2) Registration fee, which shall be refunded in the event the applicant does not receive a license.
 - (3) Zoning permit demonstrating that the location proposed for licensing by the applicant complies with all applicable requirements of the Borough's land development regulations set forth in chapter 230 of this Code.
 - (4) Proof that the applicant has or will have lawful possession of the premises proposed for the cannabis establishment, which proof may consist of: a deed, a lease, a real estate contract contingent upon successful licensing, or a binding letter of intent by the owner of the premises indicating an intent to lease the premises to the entrant contingent upon successful licensing.
 - (5) Affidavit and documentary proof of compliance with all state and local laws regarding affirmative action, anti-discrimination and fair employment practices. The applicant shall also certify under oath that they will not and shall not discriminate based on race, color, religion (creed), gender, gender expression, age, national origin (ancestry), disability, marital status, sexual orientation, or military status, in any of its activities or operations.
 - (6) Affidavit or other documentary proof that any person proposed to have an ownership interest in the license shall not have had any cannabis license or permit revoked for a violation affecting public safety in the State of New Jersey or a subdivision thereof within the preceding five (5) years.
- C. All applications upon being deemed complete shall be submitted to the Council for approval or denial. In evaluating the application(s), the Council shall establish a minimum percentage score required to be awarded a license using the criteria and percentage attributed to said criteria set forth herein below. In the event, however, there are multiple applicants for a license, the Council shall evaluate all applicants and issue a notification of award after consideration and evaluation of the following criteria:

- (1) Applicant's owners' or principals' qualifications and experience operating in highly regulated industries, including cannabis, healthcare, pharmaceutical manufacturing, and retail pharmacies, with preference to experience operating such businesses within the State of New Jersey and where the value of owners' experience shall outweigh the experience of non-owner principals (twenty percent, not to exceed 2,500 words);
- (2) Applicant's qualifications and experience related to public safety and security, including any of the applicant's owners' or principals' experience in law enforcement and drug enforcement (five percent, not to exceed 1,000 words), and a summary of the applicant's plans for storage of products and currency, physical security, video surveillance, security personnel, and visitor management (five percent, not to exceed 2,500 words);
- (3) Applicant's or its owners' experience conducting or supporting or plans to conduct institutional review board-approved research involving human subjects that is related to medical cannabis or substance abuse, where the value of past or ongoing clinical research with IRB approval shall outweigh plans to conduct such research (five percent, not to exceed 2,500 words), whether the applicant has had any assurance accepted by the U.S. Department of Health & Human Services indicating the applicant's commitment to complying with 45 CFR Part 46 (five percent), and whether the applicant has a research collaboration or partnership agreement in effect with an accredited U.S. school of medicine or osteopathic medicine with experience conducting cannabis-related research (five percent);
- (4) Applicant's or its owners' demonstrated commitment or sufficient experience as responsible employers, defined as the applicant entity being a party to a labor peace agreement or the applicant entity or its parent company being a party to a collective bargaining agreement in the regulated cannabis industry for at least one year prior to application for a Cannabis Establishment license, in an effort to create well-paying jobs with employee benefits in the municipality (twenty percent in total; five points for labor peace, full twenty points for collective bargaining agreement in effect for at least one year);
- (5) Summary of the applicant's environmental impact and sustainability plan (four percent, not to exceed 500 words); whether the applicant entity or its parent company has any recognitions from or registrations with federal or New Jersey state environmental regulators for innovation in sustainability (three percent); and whether the applicant entity or its parent company holds any certification under international standards demonstrating the applicant has an effective environmental management system or has a designated sustainability officer to conduct internal audits to assess the effective implementation of an environmental management system (three percent);
- (6) Applicant's ties to the host community, demonstrated by at least one shareholder's proof of residency in the Borough for five or more years in the past ten years or at least one shareholder's continuous ownership of a business based in Borough of Highland Park for five or more years in the past ten years (five percent); and
- (7) Applicant's demonstrated commitment to diversity in its ownership composition and hiring practices and whether the applicant entity or its parent company holds any certifications as a NJ minority-owned, women-owned, or veteran-owned business (twenty percent in total; ten points for one certification and twenty points for two or more).

- D. Notwithstanding the foregoing competitive application process, a notification of award and conditional municipal license shall entitle the recipient applicant to pursue a State permit or license in the appropriate classification for up to 12 months, which may be extended in the Administrator's discretion for an additional 6 months for good cause. No license to operate shall issue until the applicant has received a State permit and satisfied other prerequisites of municipal licensure. If the recipient of a notice of award and conditional license has not received a State permit or license within 12 months from issuance, unless extended for good cause, the Administrator shall issue a new request for applications and evaluate all applicants for licensure under the above criteria.

§ 136-8. Fees; number of licenses.

- A. The number and type of cannabis licenses and the annual fees therefor shall be as follows:

<u>Class of License</u>	<u>Application Fee (nonrefundable)</u>	<u>Annual Registration Fee (refunded in the event the applicant does not receive a license)</u>	<u>Number of Licenses</u>
Class 5 Cannabis Retailer and Medical Cannabis Dispensaries	\$1,000.00	\$5,000.00	Limited to six (6)
Class 6 Cannabis Delivery Service	\$1,000.00	\$2,500.00	No Limit

- B. The license fee shall be paid on or before January 1 and shall cover the time period from January 1 until December 31. For a license issued after December 1 and before December 31, the license fee shall be prorated on a per month basis.
- C. Licenses issued pursuant to this chapter shall be personal to the licensee and shall not be transferable.
- D. A separate license shall be required for each class of cannabis business, and a separate application fee and registration fee shall be charged for each type of license.

**ARTICLE III
Suspension or Revocation of License**

§ 136-9. Suspension; revocation; non-renewal.

Any suspension, revocation or non-renewal of a license pursuant to this chapter, or any suspension, revocation or non-renewal of a CRC-issued license or permit for the operation, or any adjudication of felony criminal guilt by the cannabis business or its principals shall constitute an automatic revocation of a Borough license issued pursuant to this chapter, at which time the operation shall immediately cease. A criminal adjudication voids and prohibits any future reinstatement of a Borough license.

ARTICLE IV
Enforcement, Violations and Penalties

§ 136-10. Violations and penalties.

Any violation of the terms of this chapter, of any condition of the license, or of any State, or local law or regulation may result in the revocation of the license and may further subject the licensee to any applicable penalties, including but not limited to the general penalties set forth in Chapter 1, Article III of this Code.

§ 136-11. Enforcement.

The provisions of this chapter shall be enforced by the Borough Police Department, Borough Zoning Officer and/or Borough Health Officer as appropriate based on the nature of the violation.

EXHIBIT B
CHAPTER 374
TAXATION

ARTICLE III

Local Cannabis Transfer and User Tax

§ 374-6. Purpose.

The purpose of this article is to implement the provisions of the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (the "Act" or "CREAMMA") set forth at *N.J.S.A. 24:6I-46* and *N.J.S.A. 40:48I-1*, which authorize a municipality to impose transfer and user taxes on cannabis establishments.

§ 374-7. Definitions.

All terms herein shall be defined as set forth in section 3 of CREAMMA, *N.J.S.A. 24:6I-33*.

§ 374-8. Cannabis transfer tax.

- A. All cannabis establishments operating in the Borough shall be subject to the following transfer tax on the sale of cannabis or cannabis related items:
 - (1) Class 5 cannabis retailers: Two percent (2%) of the receipts from each sale
- B. The transfer tax imposed pursuant to this section shall be in addition to any other tax or fee imposed pursuant to statute or local ordinance or resolution by any governmental entity with regard to cannabis.
- C. Any transaction for which the transfer tax is imposed shall be exempt from the tax imposed under the "Sales and Use Tax Act," *N.J.S.A. 54:32B-1 et seq.*
- D. The transfer tax shall be collected or paid, and remitted to the Borough by the cannabis establishment purchasing or receiving the cannabis or cannabis item. The transfer tax shall be stated, charged and shown separately on any sales slip, invoice, receipt or other statement or memorandum of the price paid or payable or equivalent value of the transfer for the cannabis or cannabis item.

§ 374-9. Cannabis user tax.

- A. Any concurrent license holder operating more than one cannabis establishment shall be subject to a two percent (2%) user tax. The user tax shall be imposed on the value of each transfer or use of cannabis or cannabis items not otherwise subject to the transfer tax imposed pursuant to this article, from the license holder's establishment that is located in the Borough to any of the other license holder's establishments, whether located in the Borough or in another municipality.
- C. The user tax shall be in addition to any other tax or fee imposed pursuant to statute or local ordinance or resolution by any governmental entity with regard to cannabis. Any transaction for which the user tax is imposed, is exempt from the tax imposed under the Sales and Use Tax Act. *N.J.S.A. 54:32B-1 et seq.*
- D. The user tax shall be stated, charged and shown separately on any sales slip, invoice, receipt or other statement or memorandum of the price paid or payable or equivalent value of the transfer for the cannabis or cannabis item.

§ 374-10. Collection of cannabis transfer and user tax.

In accordance with the provisions of CREAMMA:

- A. Every cannabis establishment required to collect the transfer and user taxes imposed by this article shall be personally liable for the transfer and user tax imposed, collected, or required by this article and CREAMMA.
- B. Any cannabis establishment collecting a transfer tax or user tax shall have the same right with respect to collecting the tax from another cannabis establishment or the consumer as if the tax was a part of the sale and payable at the same time. With respect to non-payment of the transfer tax or user tax by the cannabis establishment or consumer, as if the tax was part of the purchase price of the cannabis or cannabis item and payable at the same time, provided that the Borough's chief financial officer is joined as a party in any action or proceeding brought to collect the transfer tax or user tax.

- C. No cannabis establishment required to collect the transfer and user taxes imposed by this article shall advertise or hold out to any person or to the public in general, in any manner, directly or indirectly, that the transfer tax or user tax will not be separately charged and stated to another cannabis establishment or the consumer or that the transfer tax or user tax will be refunded to the cannabis establishment or the consumer.

§ 374-11. Remittance of cannabis taxes; delinquencies.

- A. All revenues collected from the transfer tax and user tax imposed pursuant to this article shall be remitted to the Borough's chief financial officer on a monthly basis.
- B. The Borough shall enforce the payment of delinquent taxes or transfer fees imposed by this article in the same manner as provided for municipal real property taxes.
- C. In the event that the transfer tax or user tax imposed by this article is not paid as and when due by a cannabis establishment, the unpaid balance, and any interest accruing thereon, shall be a lien on the parcel of real property comprising the cannabis establishment's premises in the same manner as all other unpaid Borough taxes, fees, or other charges. The lien shall be superior and paramount to the interest in the parcel of any owner, lessee, tenant, mortgagee, or other person, except the lien of Borough taxes, and shall be on a parity with and deemed equal to the Borough lien on the parcel for unpaid property taxes due and owing in the same year.
- D. The Borough shall file in the office of its tax collector a statement showing the amount and due date of the unpaid balance of cannabis taxes and identifying the lot and block number of the parcel of real property that comprises the delinquent cannabis establishment's premises. The lien shall be enforced as a municipal lien in the same manner as all other municipal liens are enforced.
- E. No licensed cannabis establishment operating in the Borough shall be permitted to renew a license issued pursuant to Chapter 136 of this Code should any transfer or user tax imposed by this article be delinquent.